# UNITED STATES BANKRUPTCY COURT NORTHERN DISTRICT OF ALABAMA

IN RE:	§ §
KISHA N. WALKER	§ CHAPTER 13
DEBTOR(S)	§ CASE NO. 05-05243-BGC
VANDERBILT MORTGAGE & FINANCE, INC.,	§ § MOTION NO. §
WOVANT(S)	§ §
KISHA N. WALKER	§ § 8
AND	§ § §
RESPONDENT(S)	§ §

# MOTION FOR RELIEF FROM STAY BY VANDERBILT MORTGAGE & FINANCE

COMES NOW Vanderbilt Mortgage & Finance, (hereinafter "Movant"), a secured creditor in the above bankruptcy proceeding and moves this Honorable Court to enter an Order granting relief from Section 362 of the United States Bankruptcy Code to Movant so as to permit recovery of the collateral securing this claim and as grounds for said Motion states as follows:

- 1. Movant is a secured creditor in the above referenced Chapter 13 proceeding.
- 2. The Debtor financed the purchase of a 1998 Clayton Ranger Manufactured Home, Green, VIN #CLA042803TN through Movant. Movant has a security interest in

this manufactured home as evidenced by the documents attached hereto as Exhibit "A" and incorporated herein by reference.

3. The Debtor's Chapter 13 plan fails to list Movant as a creditor.

4. Based on the forgoing, Movant asserts that it is not adequately protected, and unless Movant is granted relief from the automatic stay so as to repossess and dispose of the collateral, Movant will suffer irreparable harm and injury.

WHEREFORE, Movant moves this Honorable Court:

A. Enter an Order granting to Movant relief under 11 U.S.C. Section 362(d) so as to permit Movant to pursue its state court remedies, repossess and dispose of the collateral securing its claim in accordance with its security agreement and the Uniform Commercial Code and thereafter amend its claim for the unsecured deficiency which may thereafter remain.

B. Movant prays for such other and further relief to which it may be entitled.

/s/Stuart D. Albea Stuart D. Albea (ALBES-6156) Attorney for Vanderbilt Mortgage & Finance File No. 36000.652

OF COUNSEL

ROSEN, COOK, SLEDGE, DAVIS, SHATTUCK & OLDSHUE, P.A. 2117 Jack Warner Parkway Post Office Box 2727 Tuscaloosa, Alabama 35403 Telephone: (205) 344-5000

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## **CERTIFICATE OF SERVICE**

This is to certify that I have this day served the following:

Kisha N. Walker Debtor 3095 Oden Mills Road Sylacauga, AL 35151

Wayman Powell, III 469 Turtle Creek Drive Birmingham, AL 35226

D. Sims Crawford Trustee P.O. Drawer 10848 Birmingham, AL 35202

This the 17th day of November, 2005.

/s/ Stuart D. Albea Stuart D. Albea (ALBES-6156) Of Counsel for Vanderbilt Mortgage & Finance

### STATE OF TENNESSEE

§ AFFIDAVIT OF

§

COUNTY OF KNOX

§ ROBERT YOUNG

Before me, the undersigned authority, personally appeared Robert Young, hereinafter referred to as Affiant, who being known to me and being first duly sworn, deposes and says as follows:

- My name is Robert Young and I am employed by Vanderbilt Mortgage & Finance (hereinafter "Movant"). I have personal knowledge of the facts stated herein, and I am custodian of any records attached hereto. I have a personal understanding of how the books, records and computer systems relating to loan servicing at Movant function and how they relate to the bankruptcy proceeding filed by the Sheila Y. Kidd (hereinafter "Debtor"). Among my responsibilities as an employee of Movant is to monitor the processing of payments and other requirements of the Debtor under the terms of the Debtor's Retail Installment Contract and Security Agreement
- 2. The Debtor executed a Retail Installment Contract and Security Agreement (hereinafter "Contract") to Movant in the principal amount of \$27,344.00 on February 19, 1998, which is secured by personal property being more particularly described in the Contract and in Movant's Motion for Relief from the Automatic Stay filed contemporaneously herewith. True and correct copies of the Contract and the Certificate of Title evidencing the perfection of Movant's security interest in the personal property are attached to the Motion for Relief From Stay as Exhibit "A". As of November 17, 2005, the aggregate amount due and owing Movant under the terms of the contract is \$27,197.78. The value of the property does not exceed the amount owed under the Contract
- 3. The information contained herein and in the attached Exhibits is based upon business records that Movant keeps in the ordinary course of its business, made at or near the time of the facts stated thereby, which Movant keeps, maintains and generates as part of its ordinary course of business. All of the above statements are true and correct and stated as facts based upon my own personal knowledge.

AFFIANT

Vanderbilt Mortgage & Finance

SWORN TO and SUBSCRIBED before me on this the 15th day of December 2005

Notary Public

Mx Commission Expires:

MANUFACTURED HOME RETAIL INSTALLMENT CONTRACT, SECURITY AGREEMENT AND DISCLOSURE STATEMENT Sheila T. Kidd Zy Lacuaga Cay HA Wynette Road AL 35150 COMMENTAL STREET POURST AND STREET Oak Grove Mobile Home 39904 US Highway 280 Sylacause Munusia and sinker Otto Select herbrasil, and you, the underagned Buyer bareby purchase, subject to the terms and concidents herbrasiles sell from the tolknowing describ-ulactured home complete with ambure, apprances, stackments and equipment ["Collatera"], and you hareby acknowledge delevery and acceptance of the Collace and a subjectory condition. Lucation of Cultiferal. If other than Fever's above addresses DESCRIPTION MANUFACTURER'S SERVAL VIOL MANUFACTURER'S HAME MODEL HAVE A MODEL NO. SCHARE FEET COLOR 1998 He w Ffautar RANGER T.AA.428A3TW 16+80 Mat Conditioning (2) EMange Mitaliferator □ Ficester □ Washer □ Dryer HICLEDED Extenditure (as per 19, Coor plan) | Devenog(s) 22 Skirling | Decessory Shed 22 Other | Dis firm a file | Codateral purchased for use primady: XX Personal, Family or Household, 🔲 Business, TRUTHING FURNIS OFFICE Total of Amount iotal Sale Price PERCENTAGE BATE CHARGE Floanced Payments The latal sale of Buyers' pur-chars on erects, tecteoling Buyers' downpayment of The amount of credit provided to Buyers or on Buyers' behalf, The amount Buyers will have easil that Buyers have made all payments as scheduld.

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CAUTION—IT IS IMPORTANT THAT YOU THOROUGHLY READ THIS CONTRACT BEFORE YOU SIGH IT.

EXHIBIT 1

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OTHER IMPORTANT AGREEMENTS

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Lerms of this content. Our acceptance of any payment start his does shall content any of the might lerms of this content. Our water of an exect of claims on one occasion out about consultant a variety of blure instances of the Server event of left left per of other rests to default at he same time. We may offly reduces any of our uplate some of the server event of the factors of the start of

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Fare provided Excitated in this contract.

Halles at High Its does Debut it tyou deland in the pryment of any installment due in the performance of any conditions required interested on the terror and perceives are further than the provided you within motion privilege out the terror and perceives are further than the provided you within motion privilege or reduction that the provided in the provided of the provided of the condition of the provided of the provided of the Collision of the provided of the Collision is particularly sparked on the provided of the Collision is particularly sparked by the provided of the Collision is particularly sparked by the provided of the Collision is particularly sparked by the provided of the Collision is particularly sparked provided of the Collision is the consequent of the provided provided of the Collision is the college unput behave due hereunder, less any relunds of uncarried charges computed as year propagations, and provided to particularly and provided and provided and provided and extended under this contract and applicable tax.

Beneald for Full Payment and Additional Remedies on Default: ALL THE

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mark, any remaining functioning mainten aircs storm application in the safe process, and in Judicip pressured or light footbasts, we writery that preserved or large pressured effects in or upon the Casistrain or the firm of Institute, View will prove you write consect, at your last known a Order, view groups and in 10 the appeal and only such preserved effects. If you do not claim the preserved effects which, all days after owners in maked, we may will not inference dispose of them in a reasonable maked by love, plant, or we may a file of otherward ediposes of them in a reasonable maked by love, and distribute any process's amounting to appear the safe.

to applicable leve.

Histling the Collateral Back Alfat Representation: If we represent the Collateral you have the right to got it back (redeem) by paying the online amount you case on the contract (not jets text due promotely glots our reasonable out-oil-nocket most of relating, below and preparing the Collateral for sele. I continer with our reasonable altomore; I see, and to exceed 15% of the unstité débit, public to a lawyer wisto is not our satirité enroityer, all as allowed by law, your right to redeem the Collateral will and when it is soon.

and when it is site.

Additional Provisions: You represent that the alloyange set forth for the property traded in as the monetary value thereof a sepand frief rold in good faith, ased that no extension of credit of the third has the monetary to the third of the rold of

not be appeal of the appeal of transmission of payments or for my other propose, ichanges in the fourtext, Any changen in time of this toutext can within and a special proposed in the payment of the pa

only and is not a warranly by representalitor. This provides needed to consider a warranly by representation. This provides needed by the considerance of the Collection would be provided by the considerance of the Collection. Interpretation of American control of the Collection of

Governing Law: This Contract has been delivered is the State of Seller's place of business and will be governed by the laws of that State and applicable lederal law.

NOTICE: ANY HOLDER OF THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES WHICH THE DEBTOR COULD ANY HOLDER OF THIS CONSUMENTATION OF THIS IS SUBJECT TO FILL CLASS AND DEFENSES WHICH THE DEBITION COULT.
ASSERT AGAINST THE SELLER OF GOODS OR SERVICES DITAINED PURSUANT HERETO OR WITH PROCEEDS HEREOF,
RECOVERY HEREUNDER BY THE BESTOR SHALL NOT EXCEED AMOUNTS PAID BY THE DESTOR HEREUNDER.

The preceding NOTICE applies only to goods or services obtained primarily for personal, lamily, or household use.

In consideration of granting this credit to the Buyer namedations, and not for purposes of being obligated horsewing the underlynod hereby grants to the Seder as exactly lettered described herein and all purposes is branch in the College of object of this Retail Installated Contact.

SELLER'S ASSIGNMENT AND WARRANTY

FOR VALUE RECEIVED, the enteringened does, hereby and easing an Death of the County of

The presence of UNIVATED like with temperatured the present states from this sides of the Degree as the least states of the present of at a some the beautiful temperature of the present of the present

05/ 80/ 000 000 979



## CERTIFICATE OF TITLE FOR A VEHICLE

EXHIBIT 2

VEHICLE IDENTIFICATION NUMBER

TRANS, CODE

22463158 YA, MODEL

CLA042803TN MAKE

01

04/16/1998

CLAYTON

MODEL RANGER BODY TYPE PREVIAL TITLE NO.

CYL NEW USED

DEMO PURCHASE DATE NO. LIENS

COLOR

ODOMETER

02/19/1998 1

EXEMPT

GREEN

NAME(5) AND MAILING ADDRESS OF OWNER(5)

KIDD SHEILA Y

HAIL TO

83 WYNETTE RD RESIDENT ADDRESS IF DIFFERENT

SYLACAUGA AL 35150

P D BOX 501416

CHASE MANHATTAN BANK USA N

ATLANTA

GA 31150-1416

LEGEND(S)

RELEASE OF LIEN
The holder of Lien on the vehicle described in this Cartificate does hereby state that the lien described in aid Cartificate of This is released and discharged.

IST LIENHOLDER'S NAME ADDRESS AND LIEN DATE 02/19/1998

CHASE MANHATTAN BANK USA NA

P D BOX 501416

ATLANTA

GA 31150

AND LIENHOLDER'S NAME ADDRESS AND LIEN DATE

First Lienhalder

Signature of Authorized Agent

Second Lianholder

Signature of Authorized Agent

This cartificate serves as an official document of the Department of Revenue and prima facie evidence that an application for certificate of title has been mode for the vehicle described herein, pursuant to the provisions of the Motor Vehicle laws of this state, and the applicant named on the face benefit has been day recorded as the lawful owner of the vehicle so described. Further, the said vehicle is subject to the security interest by Fingle) shown across, of any, But, and discribed vehicle may be subject to a mechanic face on a Encythent Salata to the United States, this State or any political subdivision of this State or other encumbrances not required to be fixed with this Department.

CONTROL NUMBER

COMMISSIONER OF REVENUE

21000229